handedly thwart the Commission's efforts to open up local exchange resale competition.

35. Pacific's limitations on its LISC capacity should be compared to its capacity to switch customers among long distance carriers (referred to as the customer's PIC) for both intra and interLATA service. In Investigation (I.) 87-11-033, IntraLATA Presubscription Phase, Pacific's witness, Ms. Eva Low, Pacific's Director, Switching Engineering, testified that Pacific would implement intraLATA presubscription coincident with its affiliate's (PB COM) entry into the interLATA market (Exhibit 10, pp. 18-19). Ms. Low further testified that Pacific could process between 50,000 to 80,000 PIC changes per day on Mondays through Saturdays and 100,000 to 120,000 PIC changes per day on certain Sundays (Exhibit 10, p. 19).

36. Thus, Pacific has created a situation whereby if its affiliate, PB COM, is successful in convincing customers to switch providers it will have its orders processed promptly and, according to Ms. Low, with little, if any, delay. Pacific has the capacity to change the PICs of more than 100% of its customers within one year. On the other hand, CLCs will encounter long delays in migrating customers from Pacific, assuming customers are even willing to put up with such delays. Pacific has the capacity to migrate just over 6% of its local customers within one year, if its systems work perfectly.

37. Despite AT&T's concerns expressed to Pacific, both orally and in writing, Pacific has not indicated that it will devote, in a timely manner, the

necessary resources to its LISC so that it will be able to process customer migration orders without significant backlog and delay.

Pacific's Processes For Handling Customer Migration To CLCs Reselling Pacific's Services Are Anti-Competitive And Unlawful

38. AT&T incorporates by reference, as if fully set forth herein, the allegations contained in paragraphs 1-37.

39. Pacific's processes for handling customer migration to CLCs reselling Pacific's services constitute a violation of Public Utilities Code section 709.5, which provides that all telecommunications markets subject to the Commission's jurisdiction be opened to competition not later than January 1, 1997 and that competition in telecommunications markets be fair. Pacific's processes in thwarting customer migration, as described above, virtually assure that no meaningful competition can begin until after January 1, 1998, at least a full year after the date mandated by statute. Further, Pacific's processes, which virtually guarantee that a large number of CLC resale customers will be disconnected, while its own customers suffer no such degradation of service, can hardly be considered "fair" competition.

40. Pacific's processes for handling customer migration to CLCs reselling Pacific's services constitute a violation of Public Utilities Code section 453(a), which prohibits a public utility from granting "any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage." Pacific's processes which severely

limit the number of CLC resale customers who can be migrated in 1997, when compared to the fact that in the same time period Pacific's processes can change the PIC of more than 100% of its customers, constitute a significant "preference or advantage" to its affiliate PB COM and a significant "prejudice or disadvantage" to all CLCs, in violation of Public Utilities Code section 453(a).

41. Pacific's processes for handling customer migration to CLCs reselling Pacific's service constitute a violation of the Commission's D.95-07-054. Appendix A to that Decision provides that:

> "It is the policy of the Commission that all telecommunication providers shall be subject to appropriate regulation to safeguard against anti-competitive conduct" (Appendix A, Rule 1.D.).

By putting in place practices which severely limit the number of customers who can be migrated to CLCs and by utilizing practices which virtually insure that many of those customers who do migrate will have their service disconnected, Pacific is engaging in anti-competitive conduct. Customers whose orders are delayed or who have been disconnected will, in many cases, fault their CLC and return to Pacific (see paragraph 12). Indeed, after such frustrating experiences these customers may never be open to switching to a CLC, no matter how attractive the CLC's offer of service. Pacific's actions totally contravene the Commission's policy of fair competition.

42. Pacific's processes for handling customer migration to CLCs reselling Pacific's services constitute a violation of the Commission's D.96-02-072. The Commission stated in that Decision:

> "[A]dequate service ordering interfaces are necessary to enable CLCs to offer a quality of service which is competitive with that of the LECs" (mimeo, p. 32).

The Commission adopted the following rule for LEC/CLC arrangements:

> "LECs shall put into place an automated on-line service ordering and implementation scheduling system for use by CLCs" (Appendix E, Rule 8.C.).

Pacific's processes, as detailed above, do not "enable CLCs to offer a quality of service which is competitive with that of the LECs." In fact, Pacific's processes guarantee that CLCs' resold services will be of inferior quality to that of Pacific. Pacific's cumbersome CRIS/CABS systems do not meet the Commission's requirement for "automated on-line service ordering and implementation scheduling systems for use by CLCs." Further, Pacific's manual handling of orders at the LISC, as detailed in paragraph 31, is also in direct violation of the above-cited rule. Pacific has been on notice of the Commission's requirements for over ten months and has not put in place the required automated, on-line systems required by D.96-02-072.

43. Pacific's processes for handling customer migration to CLCs reselling Pacific's services constitute a violation of the Telecommunications Act of 1996 (TA 96) and the implementing regulations of the Federal Communications Commission (FCC) codified at Title 47, Code of Federal Regulations (CFR), Sec. 51, et. seq. TA 96, section 251(c)(4)(B) imposes

the duty on all incumbent LECs, including Pacific, not to impose unreasonable or discriminatory conditions or limitations on the resale of telecommunications service. Section 51.603 (at 47 CFR Sec. 51, et. seq.) of the FCC's implementing regulations provides:

> "(a) A LEC shall make its telecommunications services available for resale to requesting telecommunications carriers on terms and conditions that are reasonable and non-discriminatory.
> (b) A LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that the LEC provides these services to others, including end users."

Pacific's processes, as detailed above, are in clear violation of TA 96 and 47 CFR § 51.603. Pacific is imposing discriminatory conditions on the resale of its service, is not providing service to CLCs equal in quality to the service provided its own end users, and is not provisioning service to CLCs in the same time intervals as it provides to its own end users.

44. Pacific's processes for handling customer migration to CLCs reselling Pacific's services constitute a violation of TA 96 section 251(c)(3), which imposes the duty on all incumbent LECs to provide nondiscriminatory access to network elements on an unbundled basis. The FCC has found that a LEC's operating support systems for pre-ordering, ordering and

provisioning, among others, constitute such unbundled network elements, 47 CFR § 51.313(c).[3] In this regard the FCC stated:

> "Obviously, an incumbent that provisions network resources electronically does not discharge its obligation under section 251(c)(3) by offering competing providers access that involves human intervention, such as facsimile-based ordering." First Report and Order Memorandum Opinion and Order in Docket No. 96-98, paragraph 523.

Pacific's manual handling of orders at its LISC, as detailed in paragraph 31, is clearly in contravention of the FCC's mandate.

Request For Relief

WHEREFORE, Complainant requests that the Commission:

(1) Order Defendant to comply with Public Utilities Code §§ 453 and 709.5; Decisions 95-07-054 and 96-02-072; and with TA 96 §§ 251(c)(3) and (4)(B), and 47 CFR §§ 51.313(c) and 51.603. Specifically, Pacific should be required to:

(a) No later than January 31, 1997, change its internal processes for handling the records of customers so that when one of its local service customers migrates to the service of a CLC that customer will not suffer a disconnection or service outage.

(b) Immediately devote sufficient resources to the operation of its LISC, including the development of true electronic interfaces, and

[3] On Friday, December 13, 1996 the FCC denied LEC Petitions for Reconsideration

continue to do so throughout 1997, so that all orders from CLCs for the migration of customers can be handled on a timely basis, i.e., within the same time frame as Pacific provides service to its own end users, and with the same reliability as Pacific provides service to its own end users.

(c) Immediately honor its commitment to issue a FOC within four hours of receipt of an order from AT&T to migrate a customer.

(2) Order such other and further relief as appears just and reasonable under the circumstances.

Dated this 23rd day of December, 1996 at San Francisco, California.

William A. Ettinger
Senior Attorney
AT&T Communications of
California, Inc.
795 Folsom Street, Room 625
San Francisco, CA 94107
Tel: (415) 442-2783
Fax: (415) 442-5505

concerning its ruling regarding operational support system requirements.

VERIFICATION

I, Randolph W. Deutsch, am an officer of AT&T Communications of California, Inc., the Complainant herein, and am authorized to execute this verification on its behalf. The statements in the foregoing Complaint are true of my own knowledge, except as to matters which are therein stated as information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed by me on December 23, 1996, at San Francisco, California.

Randolph W. Deutsch

December 23, 1996

Mr. Wesley Franklin
Executive Director
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

Re: AT&T Complaint Against Pacific Bell

Enclosed for filing with the Commission are an original and 12 copies of a Complaint of AT&T Communications of California, Inc. (U 5002 C) against Pacific Bell. Pursuant to Rule 11, two additional copies for the named defendant are also enclosed.

Very truly yours,

William A. Ettinger

cc: Pacific Bell

December 23, 1996

Mr. Wesley Franklin
Executive Director
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

Re: AT&T Complaint Against Pacific Bell

Enclosed for filing with the Commission are an original and 7 copies of a Complaint of AT&T Communications of California, Inc. (U 5002 C) against Pacific Bell. Pursuant to Rule 11, two additional copies for the named defendant are also enclosed.

Very truly yours,

William A. Ettinger

cc: Pacific Bell

Richard Scheer
Law & Government Affairs
1996 Accomplishments

Developed professionally to become an effective regulatory advocate and subject matter expert in connection with numbering and other local competition issues, while demonstrating commitment, dedication and work ethic. Advanced from unknown status to gain respect and establish rapport with Commission staff members, coalition allies, and even adversaries. Specific areas of responsibility follow.

Permanent Local Number Portability (LNP)

Served effectively as co-chair of California LNP Task Force, a position demanding impartial administrative ability as well as partisan advocacy skills. Established subcommittees to advance work of LNP implementation. Frequently led group discussions around contentious issues. Developed working relationships with, and gained respect of, numerous industry representatives.

Developed data requests served by California Telecommunications Coalition on Pacific Bell (PB) in connection with PB assertions about relative cost of AT&T's Location Routing Number (LRN) and PB's Query on Release (QoR) permanent LNP proposals. Responses were used to inform regulators of unsubstantiated basis for inflated cost claims about LRN and illusory savings in QoR. Also prepared AT&T responses to PB data requests regarding AT&T FCC filings.

Prepared comprehensive comments, jointly filed by AT&T & MCI, evaluating the submissions of PB and GTE on relative costs and proposed deployment schedules for LRN and QoR. Worked closely with LNP Project Management, HQ Law & Public Policy and others to identify errors, inconsistencies and shortcomings of incumbent LEC positions. Strength of mid-year filing evident in that MCI, close to year's end, submitted same filing to FCC, to refute PB's Petition for Reconsideration of FCC rejection of QoR.

Advocated need for CPUC mandate to reject QoR and require LRN, in ex-parte meetings with all CPUC Commissioners. Received HQ recognition for playing key role in regional and HQ efforts to obtain regulatory mandate for rapid deployment of competitively neutral LNP solution. Victory achieved with FCC order rejecting QoR and establishing aggressive deployment schedule, and subsequent CPUC order for Task Force to implement LRN in accordance with FCC schedule.

Advocated need for entity to select Service Management System/Number Portability Administration Center (SMS/NPAC) vendor for LNP, leading to CPUC order to form an entity and select an SMS/NPAC vendor by end of 1996. Named by industry peers to be Chair of West Coast Portability Services, LLC, a limited liability corporation. Proposed WCPS name and devised its logo; more significantly, led group through difficult sessions on LLC operating agreement. WCPS is the largest (by number of member companies) such entity in the nation, has met its year-end '96 target of selecting vendors for further negotiations, and is likely to expand to include Hawaii and Nevada.

Interim Number Portability

Represented AT&T in CPUC workshop on interim number portability (INP) based on direct inward dialing (DID) functionality, working closely with HQ (P. Pfautz). Participation helped establish credentials and identify technical feasibility of DID-based route indexing INP, useful in later arbitration cases.

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Investigation into
Ameritech Ohio's Entry Into In-Region
InterLATA Service Under Section 271
of the Telecommunications Act of 1996.

Case No. 96-702-TP-COI

REPLY BRIEF OF
AT&T COMMUNICATIONS OF OHIO, INC.

AT&T Communications of Ohio, Inc. (hereinafter "AT&T") submits the following Reply Brief in these proceedings.

I. INTRODUCTION

The record in this matter demonstrates that Ameritech Ohio is not yet eligible for entry into in-region interLATA services under the Track A or Track B provisions of §271(c)(1); that Ameritech has not met the competitive checklist requirements of §271(c)(2); and that Ameritech's entry into in-region interLATA services at this time would be contrary to the public interest in the development of a competitive local exchange market. For the reasons set forth below and in its Initial Brief, AT&T respectfully requests that the Commission find, and verify, that Ameritech has not met its statutory obligations under the Telecommunications Act of 1996 (the "Act").

First, the record clearly establishes that Ameritech Ohio is not eligible under either the Track A or Track B provisions of §271(c)(1). It does not qualify under Track A because it cannot identify a single competitor who services residential customers in Ohio exclusively or predominantly over its own facilities. It does not

qualify under Track B because it has not received approval of a statement of generally available terms, and because it has received access and interconnection requests from other carriers.

Second, the record also demonstrates that Ameritech has not yet met the competitive checklist requirements of §271(c)(2). A BOC must actually provide each of the checklist items under Track A; it is not enough that they be "available." In any event, Ameritech has not even made the required items "available" to its local competitors. Its operational support systems are far from ready to support commercially significant entry into Ameritech's local exchange market. Ameritech still has no clearly defined procedure for ordering certain combinations of unbundled network elements, electronic interface specification are still untested and unstable, and Ameritech's stated intention to rely upon manual intervention to cover over deficiencies in its systems will relegate competitors and their customers to less efficient and less effective service. Ameritech fares no better with respect to other checklist items; for example, it refuses to provide unbundled shared transport in compliance with the Act and FCC Order and it imposes improper restrictions on the use of, and charges for, features available in unbundled local switching.

Third, and finally, the effects of Ameritech's failure to meet the requirements of the competitive checklist are evident: there is still no significant competition in Ameritech's local exchange market, and Ohio consumers still have no reasonable alternatives for local telephone service. It would not serve the public interest to permit Ameritech to enter into in-region interLATA services before the opportunity for a competitive marketplace exists. This is precisely the situation that

Congress envisioned when it adopted the 1996 Act, and its requirements permit only one conclusion in these proceedings: the Commission should find and verify to the FCC that Ameritech has not satisfied the statutory prerequisites for entry into in-region interLATA services.

II. AMERITECH'S BRIEF CONFIRMS THAT IT HAS NOT SATISFIED EITHER "TRACK A" OR "TRACK B" OF §271(C)(1)

The plain terms of the 1996 Act require a BOC seeking authorization to provide in-region interLATA service to demonstrate, as one prerequisite, either that it has executed an interconnection agreement with one or more facilities-based providers of local exchange service to both residential and business subscribers ("Track A"), § 271(c)(1)(A), or, under certain limited conditions, that it has filed and had approved a sufficient statement of generally available terms ("Track B"), § 271(c)(1)(B). Ameritech's submission, however, confirms that it has not satisfied this initial requirement.

In order to satisfy "Track A," a BOC must establish that it has entered into "one or more binding agreements" that provide "access and interconnection" to exclusively or predominantly facilities-based competing providers of local exchange service to both "residential and business customers." § 271(c)(1)(A). Yet, Ameritech does not appear even to claim that it has executed an access and interconnection agreement with a single provider of services to residential customers, much less one that provides residential service either "exclusively" or "predominantly" over its own facilities. Instead, Ameritech simply states (p. 4) that "[s]several carriers...have already begun to provide local exchange service to business customers." The fact that

Ameritech cannot point to a single competitor who serves residential customers either exclusively or predominantly over its own facilities disposes of any claim that it has satisfied Track A.

Nor does Ameritech claim that it has complied with the provisions of Track B – and with good reason. As AT&T pointed out in its opening brief, by its express terms Track B requires a showing that a BOC has filed a statement of generally available terms ("SGAT"), and that the state commission has either approved the statement or permitted it to go into effect. It is undisputed, however, that the Commission has neither approved Ameritech's SGAT nor permitted it to take effect. Moreover, an approved Statement here would be irrelevant to Section 271 in any event, because Track B may be invoked only where no competing carrier has requested access or interconnection, or where the only carriers that have requested access or interconnection negotiate in bad faith or unreasonably fail to comply with an implementation schedule – none of which has occurred in Ohio.

In short, Ameritech has not satisfied the requirements of § 271(c)(1).

III. IN ORDER TO SATISFY "TRACK A" AMERITECH MUST ACTUALLY FURNISH EACH OF THE ITEMS IN THE COMPETITIVE CHECKLIST TO OTHER TELECOMMUNICATIONS CARRIERS

In order to satisfy "Track A," a BOC must show that it "is providing access and interconnection pursuant to one or more" interconnection agreements with other telecommunications carriers, and that "such access and interconnection includes each of the" items in the competitive checklist. 47 U.S.C. §§ 271(c)(2)(A)(i), 271(c)(2)(B). Despite the clear terms of this express statutory requirement, Ameritech argues (p. 7)

that it need not actually be providing all of the checklist items by the time it seeks interLATA authority so long as its agreements require it to "make[] the items available to carriers that may elect to order [them] in the future." Ameritech's construction (p. 11) rests entirely on the fanciful suggestion that "there may be certain checklist items that no competing carrier chooses to buy" and that in such an eventuality "it would be impossible for Ameritech Ohio to obtain interLATA relief under Track A." Ameritech's fear is unfounded.

Contrary to Ameritech's hypothetical suggestion, AT&T (as well as numerous other CLECs) has requested, and intends to use, all of the 14 checklist items.[1] This is not surprising, because Congress designed the checklist to include the items that Congress understood CLECs would find most essential. Similarly, the FCC's First Report and Order designated certain unbundled elements as elements that must be provided under § 251(c)(3) because the FCC correctly concluded that each of these items were essential to a competitors' ability to enter into, and compete successfully in,

[1] Contrary to Ameritech's misreading (p. 12, n. 5), checklist items provided to AT&T under the AT&T agreement will "count" towards Ameritech's checklist compliance. AT&T is a "carrier" under (c)(1)(A) because it has entered into an agreement with Ameritech to obtain "access and interconnection" to Ameritech's facilities "for" its own "network facilities." Because AT&T intends to enter the market initially using a combination of its own facilities and facilities and services obtained from the BOCs, AT&T's agreements qualify under the first sentence of (c)(1)(A). While AT&T is not yet providing service "predominantly" over its own facilities, that requirement applies only "[f]or the purpose of this subparagraph" – i.e. for purposes of determining whether a BOC meets the "facilities-based" competition requirement – and not for purposes of determining checklist compliance under §271(c)(2)(B).

In this regard, even items provided to a pure reseller might very well count towards satisfaction of the checklist, in light of the statutory provisions (1) requiring a BOC to "fully implement" the competitive checklist, including the obligation to make services available for resale, § 271(d)(3)(A)(i), and (2) clarifying that a BOC satisfied the competitive checklist if it furnishes each of the items "to other telecommunications carriers," § 271(c)(2)(B) – a phrase that is not restricted to providers that use some of their own facilities. Indeed, so long as the FCC's interpretation of § 252(i) is given effect, it would make little sense to prevent applicants from establishing checklist compliance by relying on items that they furnish pursuant to all approved agreements. But see Order Granting Stay Pending Judicial Review, Iowa Utilities Bd. v. FCC, No. 96-3321 (8th Cir. October 15, 1996) (staying FCC rule implementing § 252(i)).

the local exchange market. Ameritech's fear, therefore, lacks any factual basis, and certainly provides no basis for deviating from the Act's clear and express requirements. If not every checklist item is yet being furnished in Ohio, that is only because the competitive entry process is at such an early stage – as is confirmed by the fact there is not yet any meaningful local exchange competition in Ohio. That is a reason under the statute to deny Ameritech's request for in-region interLATA entry as plainly premature, not to excuse it from the statute's clear requirements.

Section 271 expressly states that, with respect to Track A, the BOC must demonstrate that the access and interconnection covered in an agreement with a competitor must actually be "provided," and that such access must include "each" of the elements of the competitive checklist. See 47 U.S.C. §§ 271(c)(2)(A)(i)(I), 271(c)(2)(B) (emphasis added). Indeed, Section 271 repeatedly distinguishes between the Track A requirement that, where carriers have requested access and interconnection, all checklist items be "provided," and the Track B requirement that, where no carrier has requested access and interconnection, all checklist items be "offered" and "available."[2] That a BOC must actually provide each of the checklist items under "Track A" is further confirmed by section 271(d)(3)(A)(i)'s requirement that the FCC, before granting a BOC's application, find, "with respect to access and interconnection provided pursuant to [Track A]," that the BOC has "fully implemented" the competitive checklist.

[2] Compare § 271(c)(1)(A) (stating that Track A requires an agreement under which the BOC "is providing access and interconnection") with § 271(c)(1)(B) (requiring, as part of Track B, a statement that "generally offers to provide such access and interconnection"); § 271(c)(2)(A)(i)(I) (providing that the BOC must be "providing access and interconnection pursuant to one or more agreements described in paragraph 1(A)") with § 271(c)(2)(A)(i)(II) (stating that a BOC must be "generally offering access and interconnection pursuant to a statement described in paragraph 1(B)"); Compare also § 271(d)(3)(A)(i)) with § 271(d)(3)(A)(ii)).

Indeed, even Track B's requirement that a BOC generally offer all of the checklist's items presupposes, at a minimum, a showing that each item is certain to be made available throughout the state, now and in the future, at whatever competitively significant volumes are demanded (and on the same terms as the BOC enjoys). Otherwise, the BOC's "offer" would be a sham. That is why Congress referred to the "Track B" offers as "Statements of Generally Available Terms." § 252(f).

Thus, Track B's requirement of general offers merely reflects Track B's different purpose: to provide an avenue for BOC entry in the highly unlikely event that no potential competitor requests (or pursues in good faith) an access and interconnection agreement. In that single scenario, the BOC would be excused from actually providing the items in the checklist for the obvious reason that the absence of any requests for interconnection make satisfaction of such a condition impossible. That rationale has no application, however, where, as here, numerous parties have requested, and a number have actually executed, bona fide interconnection agreements that seek each checklist item from Ameritech. In this situation, Congress clearly required that the agreements both cover the checklist and be fully implemented – i.e., that all of the checklist items be actually provided – before BOC entry would occur.

As further set forth below, Ameritech has not yet addressed many of the failings identified by AT&T, and its arguments on many of the remaining issues continue to rely upon Ameritech's speculative future intentions rather than upon the evidentiary record in these proceedings. The Attorney Examiner's March 17, 1997 Entry attached a list of issues and information which the Department of Justice ("DOJ")

suggested be taken into consideration in evaluating BOC in-region interLATA entry ("DOJ list"), requesting that parties respond to such list. AT&T's' initial brief in these proceedings detailed the myriad ways in which Ameritech has failed to meet the competitive checklist requirements of § 271(c)(1)(B) and, thus, addressed most of the issues specified in the DOJ list.

In this reply brief, AT&T further responds to issues included within the DOJ list. Ameritech's initial brief, however, makes clear that it has not and is not able to address some of the basic issues raised within the DOJ list. First, the record in this proceeding demonstrates that the limited local exchange competition existing in Ohio is in its earliest stages.[3] Thus, Ameritech is not presently provisioning all the checklist items and even those it is provisioning has not reached a commercial level yet. Because the operational support systems are so pervasive to Ameritech's capability to commercially provision checklist items, the current record (as discussed in detail in this brief and the initial AT&T brief) brings serious question to Ameritech's demonstration of its capabilities to commercially provision all the checklist items. Likewise, as discussed in AT&T's initial brief, Ameritech has not established that it has created performance standards necessary to demonstrate service to CLECs in parity with itself and its affiliates. Finally, Ameritech's positions on how it intends to make various UNEs

[3] MCI recently started providing limited service to business customers entirely over its own facilities; and, in fact, is not even purchasing loops from Ameritech Ohio. (Marzullo Testimony, pp. 5-6) MFS is involved only in reselling Centrex and does not expect any expansion until at least the second quarter of 1997. (Durbin Testimony, p. 3). USN is only obtaining resold services from Ameritech. (Dunny Rebuttal, Attachments 1 and 3). Even in its brief, Ameritech acknowledges that it is only "making available" many of the checklist items, but is not "providing" them. (Ameritech Initial Brief, p. 18). In fact, Ameritech has acknowledged that it is only "making available" those checklist items related to unbundled elements, as it is not yet providing any elements. (Dunny, Tr. Vol. I, p. 181 and Dunny Rebuttal, Attachments 1-4).

available fails to comply with the FCC Order. (See Initial Brief of AT&T, pp. 24-3 and Reply Brief of AT&T, pp. 21-33).

A. Ameritech's operational support systems are not yet ready to support commercially significant entry into its local exchange market.

Ameritech concedes that it must provide competitors with nondiscriminatory access to its operational support systems ("OSS") so that they can process transactions, track orders, and provide their customers with service that is on par — in terms of speed, reliability, and accuracy — with the service that Ameritech provides. No competitor can hope to grow in Ameritech's local exchange market unless its ability to utilize OSS to provide these critical customer services is in parity with Ameritech's. Indeed, no issue better illustrates Ameritech's present headlong rush to premature approval while it simultaneously attempts to retain its monopoly stranglehold on the local market.

At the outset of these proceedings, Ameritech apparently believed that it could obtain the Commission's verification of compliance with the checklist merely by promising that it would provide nondiscriminatory access to OSS at some undefined time in the future. Indeed, Ameritech could not possibly claim that it was in compliance with this checklist item; as set forth below, witness Dunny candidly admitted at that time that Ameritech still had no idea how competitors could order certain combinations of essential network elements, and Ameritech's other OSS witnesses admitted that testing was still underway for the electronic interfaces for many other crucial OSS functions while others were not yet operational in any sense.

As these hearings proceeded, Ameritech apparently realized that promises that it would someday comply with its statutory obligations were a far cry from the full implementation demanded by the 1996 Act. Accordingly, some OSS electronic interfaces were rushed into "service" and deemed "operational" despite the fact that no one had ever attempted to use them for their intended purposes, much less in commercially significant amounts; some OSS interfaces were deemed to have been "operational" one year ago, even though testing was still underway — and modifications were still being made — during this past winter; some OSS interfaces were redefined as having been "operational" for local market purposes at a point in time prior to the enactment of the 1996 Act, on the grounds that they had been used for other purposes in the interexchange market. (See Initial Brief of Ameritech Ohio, at 25-26.)

In short, Ameritech's urgent rush to enter into in-region interLATA services at the earliest possible time has come at the expense of the statutory requirements and of the genuinely competitive local market conditions they demanded. In particular, Ameritech has hurriedly thrown together untested and unproved operational support systems in a token gesture of compliance that absolutely fails to provide its local competitors with the crucial tools they need — and are entitled by statute to receive — to be able to operate at parity with Ameritech.

In determining whether Ameritech has met its OSS obligations, the Commission must not simply rely upon Ameritech's promises or untested representations. Rather, the relevant inquiry is whether Ameritech has established that its operational support systems are, in fact, currently supporting a wide-range of

competitive operations in the local market on a nondiscriminatory basis. (Connolly Surrebuttal Test., at 5; Reeves Test. at 14-15.) As the evidence developed in this record makes clear, they are not. To the contrary, Ameritech's current OSS offering remains inadequate in many respects. As set forth below, OSS interface specifications necessary to place electronic orders with Ameritech remain highly unstable and, with respect to certain critical combinations of unbundled network elements, non-existent. In addition, Ameritech's OSS has still not been fully tested and shown to be operationally ready for commercial use by local competitors (Reeves Surrebuttal Test., at 1-3); as discussed below, Ameritech's stated intention to patch over the worst of those failings, by relying upon labor-intensive manual processing of transactions when the OSS fails to perform as promised, is error-prone, will inevitably introduce delays in the delivery of crucial customer services, and cannot possibly meet anticipated demand levels as new entrants enter the local exchange market. Ameritech has neither demonstrated that it is providing parity of access to its competitors, nor suggested effective performance standards to measure its compliance with the statutory nondiscrimination requirements.

In short, Ameritech is in a position from which it controls the availability, accuracy, and timeliness of information that competing carriers must have to provide services to their new customers, and it is attempting to exercise that control in anticompetitive ways. "[I]f competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not

precluded altogether, from fairly competing." FCC, First Report and Order, ¶ 518. Given the current status of Ameritech's OSS, no competitor is yet able to obtain, resell and service competitive telecommunications services or network elements to provide such services on par with Ameritech.

1. Ameritech's Operational Support Systems do not yet allow local competitors to acquire unbundled network elements in a standard combined platform.

Ameritech has clearly failed to meet its obligations with respect to the availability of operational support systems for electronically ordering unbundled network elements, particularly the standard combined platform element. When these hearings began, Ameritech's witness conceded that it still did not have "a commercially viable way to order that." (Dunny Testimony, Tr. Vol. I, at 69-70.) AT&T pointed out in its initial brief that Ameritech still has no interface specifications that would make it practical for AT&T to provide customer services through a combination of unbundled network elements. Ameritech failed to present arguments to the contrary in its Initial Brief.

As recently as February, 1997, discussions between the parties regarding the purchasing process for unbundled network elements and combinations of network elements were still "extremely preliminary in nature." (Connolly, supra, at 27.) Although Ameritech now speculates that it might be possible for new entrants to order the standard combination if they use two separate interfaces— the ASR interface and the EDI interface — it still does not know how that ordering process would proceed, and neither of its experts on this question were able to explain how AT&T would order

the standard UNE combination platform that Ameritech is to "make available" through the AT&T Interconnection Agreement. (Id., at 27; see also Tr. Vol. 13, at 129-130, 194-199.)

The record includes evidence of Ameritech's unwillingness and inability to provide the standard UNE combination platform. AT&T included the UNE combination platform in its arbitration, as it intends to use the platform as one of its primary means to enter the Ohio market. Ameritech has made clear, however, that it intends to block these entry plans, and, thus delay, rather than promote, a competitive local market. When questioned about a January 10, 1997 letter sent by AT&T to Ameritech inquiring into a previously submitted order for the unbundled network element platform in Illinois, Ameritech's witness indicated that as of January 28, 1997 such order had not been fulfilled. (AT&T Cross Ex. 8, Dunny Tr. Vol. 12 at 111.) Likewise, on February 17, 1997, AT&T sent a letter to Ameritech requesting the standard UNE combination platform for Ohio - and, even though the platform is to be standard, AT&T had to use its own "footprint" order form since Ameritech's order form is not designed to allow such an order. (See, Cardella letter attached as Exhibit A.)

This is a prime example of Ameritech's hurried rush toward premature approval of in-region interLATA service while its supposedly "operational" OSS still fails to provide new entrants with the basic and essential tools they need in the local exchange market. Rudimentary proposals, untested systems, and unfulfilled promises do not satisfy the statutory requirements, and will only serve to extend Ameritech's stranglehold on that market.